



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

March 13, 1998

Mr. William C. Neiser
Assistant Executive Director
Texas State Soil and Water Conservation Board
P.O. Box 658
Temple, Texas 76503-0658

OR98-0703

Dear Mr. Neiser:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 113287.

The Texas State Soil and Water Conservation Board (the "board") received a request for documents regarding Clifford Oldham or Clifford Oldham Cattle Company located in Wheeler County, Texas. You claim that one set of documents responsive to the request is excepted from disclosure under section 552.101 of the Government Code in conjunction with section 201.006 of the Agriculture Code.

Section 552.101 excepts from disclosure information considered to be confidential by law, either constitutional, statutory, or by judicial decision. Gov't Code § 552.101. Section 201.006 provides as follows:

(a) Except as provided by this section, information collected by the state board¹ or a conservation district² is not subject to Chapter 552, Government Code, and may not be disclosed if the information is collected in response to a specific request from a landowner or the landowner's agent or tenant for technical assistance relating to a water quality management plan or other conservation plan if the assistance is to be provided:

¹The "state board" is defined as the State Soil and Water Conservation Board. Agric. Code § 201.002(7).

²A "conservation district" is defined as a soil and water conservation district. Agric. Code § 201.002(1).

(1) under this code; and

(2) on private land that:

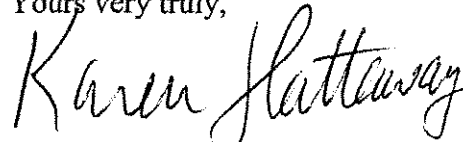
(A) is part of a conservation plan or water quality management plan developed cooperatively with the state board or conservation district; or

(B) is the subject of a report prepared by the state board or conservation district.

Agric. Code § 201.006 (footnotes added). Having examined your arguments and the documents at issue, it is apparent that the documents at issue constitute a water quality management plan for private land that the Wheeler County Soil and Water Conservation District developed with Mr. Cliff Oldham at Mr. Oldham's request. You indicate that the documents at issue are deemed confidential by section 201.006. We agree that section 201.006(a) is applicable to the documents. We note that section 201.006(c) allows the state board or a conservation district to release information about land in a particular conservation plan, provided that the information is released in a manner that does not identify a particular tract of land, the owner of the tract, or the owner's agent or tenant. Agric. Code § 201.006(c). Here, the requestor has asked for information about a particular individual and a particular company. Thus, the board is not able to release information in the de-identified form required by section 201.006(c). We note also that none of the release provisions in section 201.006 are applicable to this situation. Agric. Code § 201.006(b), (e)-(g). For these reasons, we find that the board must withhold the submitted documents from disclosure under Government Code section 552.101 in conjunction with Agriculture Code section 201.006(a).

Finally, you ask whether the board may withhold other water quality management plans pursuant to this ruling if the board receives open records requests for such documents in the future. We decline to issue a previous determination for water quality management plans at this time. Instead, we are resolving this matter with an informal letter ruling. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have any questions about this ruling, please contact our office.

Yours very truly,



Karen E. Hattaway
Assistant Attorney General
Open Records Division

KEH/ch

Ref: ID# 113287

Enclosures: Submitted documents

cc: Ms. D. Lynn Tate
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(w/o enclosures)